



State of Wisconsin \ Department of Commerce

Report From Agency

RULES IN FINAL DRAFT FORM

Rule No.: Chapter Comm 47

Relating to: Usual and Customary Cost Schedule for
Petroleum Environmental Cleanup Fund Awards

Clearinghouse Rule No.: 07-032

RULE REPORT

Department of Commerce

Clearinghouse Rule No.: 07-032

Rule No.: Chapter Comm 47

Relating to: Usual and Customary Cost Schedule for Petroleum Environmental Cleanup Fund Awards

Contact person for substantive questions:

Contact person for internal processing:

Name Sam Rockweiler

Name (same)

Title Code Development Consultant

Title _____

Telephone Number 608-266-0797

Telephone Number _____

1. Basis and purpose of the proposed rule.

The purpose of the revisions is to (1) expand the Department's schedule of usual and customary costs for Petroleum Environmental Cleanup Awards, to include two additional tasks that have become commonly associated with PECFA claims; (2) establish maximum reimbursement rates for those additional tasks; and (3) refine how the schedule addresses the tasks and corresponding rates that it currently includes.

2. How the proposed rule advances relevant statutory goals or purposes.

Under the authority and directives in section 101.143 of the Wisconsin Statutes, the Department implemented chapter Comm 47 in 1993 as a means of controlling PECFA program costs and establishing necessary administrative and regulatory procedures. The goals and objectives that formed the basis for the initial rule remain current, and the proposed rules focus on the same issues of remediation, cost control, and administrative process improvement.

3. Changes to the rule analysis or fiscal estimate that was prepared for public hearing.

A public hearing was neither required nor held.

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

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Final regulatory flexibility analysis not required. (Statement of determination required.)

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.

Section 101.143 (4) (cm) of the Statutes requires the Department to utilize and maintain a usual-and-customary-cost schedule for items that are commonly associated with claims for reimbursement from the PECFA program. That statutory requirement does not exempt small businesses from these reimbursement limits.

2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

Although a public hearing was neither required nor held, the Department solicited input during training sessions that were conducted in 2007 in Wausau, Eau Claire, Neenah, Brookfield, and Madison, for 135 PECFA consultants, commodity service providers, lenders, and site owners. Input was also received via requests for variances relating to the current cost schedule, and through telephone and e-mail inquiries from PECFA consultants and commodity service providers. Including the proposed changes in the cost schedule would discontinue needing the referenced variances, which may have been requested by small businesses.

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3. Nature and estimated cost of preparation of any reports by small businesses.

No increases in costs are expected to result from the included, minor changes to the invoice form that is currently used with the schedule of usual and customary costs.

4. Nature and estimated cost of other measures and investments required of small businesses.

The proposed changes are not expected to impose any other significant costs on small businesses.

5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.

None of the methods listed in 1. for reducing small-business impacts are included in the proposed changes.

6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

None of the methods listed in 1. for reducing small-business impacts are included in the proposed changes.

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 07-032

RULE NO.: Chapter Comm 47

RELATING TO: Usual and Customary Cost Schedule for Petroleum Environmental Cleanup Fund Awards

Agency contact person for substantive questions.

Name: Sam Rockweiler

Title: Code Development Consultant

Telephone No. 608-266-0797

Legislative Council report recommendations accepted in whole.

☒ Yes

☐ No

1. Review of statutory authority [s. 227.15(2)(a)]

- a. ☐ Accepted
- b. ☐ Accepted in part
- c. ☐ Rejected
- d. ☐ Comments attached

2. Review of rules for form, style and placement in administrative code [s. 227.15(2)(c)]

- a. ☐ Accepted
- b. ☐ Accepted in part
- c. ☐ Rejected
- d. ☐ Comments attached

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3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]
- a. ☐ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☐ Comments attached
4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]
- a. ☐ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☐ Comments attached
5. Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15(2)(f)]
- a. ☐ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☐ Comments attached
6. Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]
- a. ☐ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☐ Comments attached
7. Review rules for permit action deadline [s. 227.15(2)(h)]
- a. ☐ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☐ Comments attached